

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

HUNTAIR, INC.

Plaintiff,

vs.

CLIMATECRAFT, INC.

Defendant.

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Case No. 07 C 6890

The Honorable Judge Coar

Magistrate Judge Denlow

**HUNTAIR, INC.'S REPLY TO CLIMATECRAFT, INC.'S AMENDED
COUNTERCLAIM**

Plaintiff Huntair, Inc. (“Huntair”) by and through its attorneys, and for its Reply to ClimateCraft, Inc.’s Amended Counterclaim, answers and responds as follows:

Factual Allegations

1. Upon information and belief, Huntair admits that ClimateCraft, Inc. (“ClimateCraft”) is based at 518 N. Indiana Ave., Oklahoma City, Oklahoma 73106.
2. Huntair admits that it alleges in the Complaint that it is a corporation organized and existing under the laws of the state of Delaware, is a subsidiary of the CES Group, Inc., and has headquarters at 11555 S.W. Myslony St., Tualatin, Oregon 97062.
3. Huntair admits that it alleges in the Complaint that it is the sole owner of U.S. Patent No. 7,137,775 (“the ‘775 patent”).
4. Huntair admits that it asserts that it has standing to sue for infringement of the ‘775 patent.
5. Huntair admits that it alleges in the Complaint that ClimateCraft has infringed the ‘775 patent.
6. Huntair admits that it alleges in the Complaint that it is the sole owner of U.S. Patent No. 7,179,046 (“the ‘046 patent”).
7. Huntair admits that it asserts that it has standing to sue for infringement of the ‘046 patent.
8. Huntair admits that it alleges in the Complaint that ClimateCraft has infringed the ‘775 patent.
9. Huntair admits that it alleges in the Complaint that ClimateCraft has infringed the ‘046 patent.

10. Huntair admits that ClimateCraft purports to assert a Counterclaim arising under Title 35 of the United States Code for declaratory judgment under 28 U.S.C. §§ 2201 and 2202 of patent non-infringement, invalidity and unenforceability and that this Court has jurisdiction under 28 U.S.C. §§ 1331, 1338(a) and under the patent laws, but Huntair denies that ClimateCraft's Counterclaim has any merit.

11. Huntair admits that an actual and justiciable controversy exists between ClimateCraft and Huntair with respect to the non-infringement, invalidity and unenforceability of the '775 patent, and Huntair's right to assert the '775 patent against ClimateCraft and obtain relief therefrom, but Huntair denies that ClimateCraft's Counterclaim has any merit.

12. Huntair denies the allegations of Paragraph 12 of ClimateCraft's Counterclaim.

13. Huntair admits that an actual and justiciable controversy exists between ClimateCraft and Huntair with respect to the non-infringement, invalidity and unenforceability of the '046 patent, and Huntair's right to assert the '046 patent against ClimateCraft and obtain relief therefrom, but Huntair denies that ClimateCraft's Counterclaim has any merit.

14. Huntair denies the allegations of Paragraph 14 of ClimateCraft's Counterclaim.

15. Huntair admits that venue is proper in this district, but Huntair denies that ClimateCraft's Counterclaim has any merit.

First Counterclaim

16. Huntair repeats and realleges the responses it has made above to Paragraphs 1 through 15 of ClimateCraft's Counterclaim as though fully set forth herein.

17. Huntair denies that the '775 patent is invalid for failure to meet the requirements of patentability of 35 U.S.C. §§ 101, 102, 103 and/or 112.

Second Counterclaim

18. Huntair repeats and realleges the responses it has made above to Paragraphs 1 through 15 of ClimateCraft's Counterclaim as though fully set forth herein.

19. Huntair denies that ClimateCraft does not infringe and has not infringed the '775 patent.

Third Counterclaim

20. Huntair repeats and realleges the responses it has made above to Paragraphs 1 through 15 of ClimateCraft's Counterclaim as though fully set forth herein.

21. Huntair denies that the claims of the '775 patent are unenforceable due to inequitable conduct. Huntair denies that the applicant withheld material information from and/or misrepresented material information to the U.S. Patent and Trademark Office ("PTO") with the intent to deceive.

Fourth Counterclaim

22. Huntair repeats and realleges the responses it has made above to Paragraphs 1 through 15 of ClimateCraft's Counterclaim as though fully set forth herein.

23. Huntair denies that the '046 patent is invalid for failure to meet the requirements of patentability of 35 U.S.C. §§ 101, 102, 103 and/or 112.

Fifth Counterclaim

24. Huntair repeats and realleges the responses it has made above to Paragraphs 1 through 15 of ClimateCraft's Counterclaim as though fully set forth herein.

25. Huntair denies that ClimateCraft does not infringe and has not infringed the '046 patent.

Sixth Counterclaim

26. Huntair repeats and realleges the responses it has made above to Paragraphs 1 through 15 of ClimateCraft's Counterclaim as though fully set forth herein.

27. Huntair denies that the claims of the '046 patent are unenforceable due to inequitable conduct. Huntair denies that the applicant withheld material information from and/or misrepresented material information to the U.S. Patent and Trademark Office ("PTO") with the intent to deceive.

Relief Requested

Huntair incorporates herein its responses to Paragraphs 1 through 27 of ClimateCraft's Counterclaim and denies that ClimateCraft is entitled to any relief or judgment against Huntair.

WHEREFORE, by reason of the foregoing, Huntair prays that this Court enter judgment in its favor and against ClimateCraft as follows:

- A. Dismissing ClimateCraft's Counterclaim in its entirety;
- B. Declaring that the '775 and '046 patents are valid and enforceable;
- C. Declaring that ClimateCraft has been and is currently infringing, contributorily infringing and/or inducing others to infringe the '775 and '046 patents;
- D. An accounting be had for the damages to Huntair arising out of ClimateCraft's infringing activities together with interest, and that such damages be awarded to Huntair;
- E. ClimateCraft, and its officers, agents, servants, employees, successors and assigns, and those persons acting in concert, be permanently enjoined from further acts that infringe, contributorily infringe, or induce infringement of the '775 and '046 patents;
- F. Awarding Huntair its costs, expenses and attorneys' fees in accordance with 35 U.S.C. §§ 284 and 285 and Rule 54(d) of the Federal Rules of Civil Procedure; and

G. Granting such other and further relief as the Court deems just and proper.

Respectfully submitted,

Dated: June 11, 2008

By: /s/ Richard T. McCaulley, Jr.
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CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of June, 2008, a true and correct copy of the foregoing document, HUNTAIR, INC.'S REPLY TO CLIMATECRAFT, INC.'S AMENDED COUNTERCLAIM, was served via electronic filing with the Court to the following counsel for ClimateCraft, Inc.:

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/s/ Richard T. McCaulley, Jr.
Attorney for Plaintiff Huntair, Inc.